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BEFORE THE ARIZONA CORPORATION C

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Arizona Corporation Commission

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**COMMISSIONERS**

GARY PIERCE- Chairman

BOB STUMP

SANDRA D. KENNEDY

PAUL NEWMAN

BRENDA BURNS

2012 APR 25 PM 12 46

IN THE MATTER OF THE APPLICATION OF  
QWEST CORPORATION DBA  
CENTURYLINK-QC TO CLASSIFY AND  
REGULATE RETAIL LOCAL EXCHANGE  
TELECOMMUNICATIONS SERVICES AS  
COMPETITIVE AND TO CLASSIFY AND  
DEREGULATE CERTAIN SERVICES AS  
NON-ESSENTIAL

DOCKET NO. T-01051B-11-0378

**STAFF'S OPPOSITION TO DEPARTMENT  
OF DEFENSE AND ALL OTHER FEDERAL  
EXECUTIVE AGENCIES' REQUEST TO  
WITHDRAW**

On October 13, 2011, Qwest Corporation d/b/a CenturyLink QC ("CenturyLink") filed an Application asking the Commission "for a determination pursuant to A.C.C. R14-2-1108 that all Commission-regulated retail local exchange services CenturyLink provides are competitive... and...for a determination pursuant to A.R.S. § 40-281(E) that certain of the retail services CenturyLink provides are not essential or integral to the public service" and thus should be deregulated by the Commission. The Department of Defense and All Other Federal Executive Agencies ("DOD/FEA") filed to intervene in this case on February 10, 2012. The DOD/FEA's Motion to Intervene was granted on March 1, 2012.

On March 16, 2012, DOD/FEA filed extensive testimony in this case arguing that CenturyLink's Application should not be granted. Subsequently, the DOD/FEA entered into a Settlement Agreement with CenturyLink which CenturyLink filed with the Commission on April 19, 2012. One of the terms of the Settlement Agreement provides that the DOD/FEA will file to dismiss its opposition by filing a Request for withdrawal of its intervention, discovery requests and responses, and its pre-filed written testimony.

For the following reasons, Staff opposes DOD/FEA's request to withdraw its intervention, discovery requests and responses and its pre-filed written testimony. Staff would like the opportunity to question both CenturyLink and DOD/FEA on the provisions of the Settlement Agreement.

1 At the Procedural Conference held on April 23, 2012, at least one other party to this Docket also  
2 expressed a desire to cross examine both CenturyLink and DOD/FEA on the provisions of the  
3 Agreement. The Agreement between CenturyLink and DOD/FEA appears to give the DOD/FEA  
4 some preferential rate treatment for a period of five years. In addition, under the provisions of the  
5 Agreement, DOD/FEA appears to be entitled to service under the same terms and conditions as are in  
6 effect today for a period of five years. At a minimum, Staff has questions regarding meaning of the  
7 Agreement's provisions and the likely impact of the Agreement on other customers. It would be  
8 unfair for other parties to this proceeding to be denied the opportunity to cross examine both  
9 CenturyLink and DOD/FEA on the intended effects and meaning of the Agreement.

10 Second, typically when settlement agreements are filed with the Commission, the underlying  
11 testimony is still admitted into the record at the hearing.<sup>1</sup> It is only in this way that the Commission  
12 has a context in which to evaluate the Settlement Agreement and to determine whether it is in the  
13 public interest. In addition, in Rebuttal Testimony, the Staff has referred to DOD/FEA's testimony  
14 and relied upon it to some extent. Therefore, consistent with the typical practice, it is Staff's position  
15 that DOD/FEA's underlying testimony should be admitted into the record.

16 Further, when a settlement has been entered into between parties, the parties who are  
17 signatories to the agreement typically file testimony in support of the agreement.<sup>2</sup> Thus, in this case,  
18 CenturyLink and DOD/FEA would sponsor a witness who would discuss why the Agreement is in  
19 the public interest. However, because the Agreement in this case was just recently filed, and the  
20 hearing on CenturyLink's Application is scheduled to begin on April 30, 2012, Staff believes that  
21 CenturyLink and DOD/FEA should be permitted to offer oral testimony (rather than file written  
22 testimony) in support of the Agreement so that the schedule in this case is not impacted.

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27 <sup>1</sup> See e.g., Docket No. G-01551A-10-0458 (Southwest Gas Rate Case); Docket No. E-01345A-11-0224 (APS Rate  
28 Case); Docket No. E-01345A-08-0172 (APS Rate Case); Docket No. T-01051B-10-0194 (Qwest/CenturyLink  
Merger).

<sup>2</sup> *Ibid.*

1 Third, the Agreement between CenturyLink and DOD/FEA appears to cap the rates charged  
2 to DOD/FEA by CenturyLink for a period of five years. Because this Agreement appears to affect  
3 rates, the Commission should make a determination as to whether the Agreement is in the public  
4 interest.

5 WHEREFORE, the Staff respectfully requests that the Commission deny DOD/FEA's request  
6 to withdraw: 1) its intervention in this case; and 2) its prefiled written testimony, and data requests to  
7 other parties and their responses.

8 RESPECTFULLY SUBMITTED this 25<sup>th</sup> day of April 2012.

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16 of the foregoing filed this  
25<sup>th</sup> day of April 2012 with:

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20 Copy of the foregoing mailed this  
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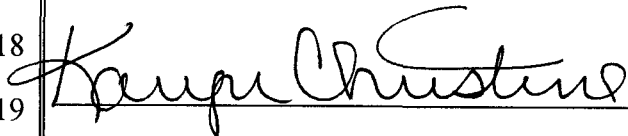
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